

AMENDMENTS TO THE DRAWINGS

The attached sheet of drawings includes changes to Figures 10-12. These sheets, which includes Figures 10-12, replaces the original sheets including Figures 10-12.

Attachment: Replacement Sheets

Annotated Sheets Showing Changes

REMARKS

These remarks and the accompanying amendments are responsive to the Office Action dated October 2, 2006 (hereinafter referred to as the "Office Action"). At the time of the last examination, Claims 3-8, 10 and 20 were pending, of which Claims 3, 4 and 10 are independent.

Objections to Drawings

Section 2 of the Office Action objected to the drawings. The attached drawings are corrected in the manner instructed by the Office Action. Please see the accompanying replacement sheets and annotated copies to show changes made.

35 U.S.C. §112 Rejection

Section 3 of the Office Action rejected Claim 6 as being indefinite under 35 U.S.C. §112, second paragraph. Claim 6 is amended herein for clarity. It is clear from Figures 9-10 and description on page 20, line 27 - page 21, line 21 that a new sustainable traffic monitoring period is commenced every time a new peak traffic monitoring period starts.

35 U.S.C. §102 and 103 Rejections

Sections 4 - 7 of the Office Action reject the remaining claims either as being anticipated by United States patent number 5,903,547 issued to Shimokasa (the patent referred to hereinafter as "Shimokasa") or as being unpatentable over Shimokasa in view of United States patent number 6,157,614 issued to Pasternak, et al. (the patent hereinafter referred to as "Pasternak").

The claims are amended to make clear that (1) the interval is inherent in the data; and (2) the traffic monitoring period is adjustably determined based on the interval inherent in the data. The support for the above amendment is found in the Japanese-language international application *PCT/JP99110192*. The Office Action appears to interpret the language "proper to the data" as "adequate for the data." What the international application calls for is, however, "inherent in the

data." Support for the language "adjustably determining the traffic monitoring period" can be found at least on page 1, lines 17-19, which states that "appropriate control [is achieved by] selecting a traffic monitoring period with taking account of the proper period" (emphasis added).

The applicants believe that none of the cited references show the arrangement defined in the claims provided as amended herein for at least the following reason

- Shimokasa Patent

The Office Action asserts that the Shimokasa patent discloses in column 6, lines 28-45 a traffic control using a monitoring period that takes into account the interval proper to the data. The applicants respectfully submit, however, that the Shimokasa patent does not disclose or suggest the use of a traffic monitoring period that is adjustable based on an interval inherent in the data. The Shimokasa patent in column 6, lines 37-45 states that the congestion state detection section 18 detects the congestion state, and transfers the congestion state data to the FAX speed control section of the PBX interface section 3, which identifies an allowable transfer speed. In other words, the Shimokasa patent discloses adjusting the transfer speed based on the congestion state, but not adjusting the traffic monitoring period based on the nature of the data. We emphasize a demarcation between control based on speed and control based on traffic monitoring period. For instance, allowing "4 cells or less during a 8-cell period" and allowing "2 cells or less during a 4-cell period" are identical from the point of view of the speed-based control, while they are not the same from the point of view of controlling the number of cells within a certain monitoring period.

- Pasternak Patent

The Office Action cited the Pasternak patent to show a radio base station having a traffic control unit. Again, we believe that the Pasternak patent does not disclose or suggest the use of a

traffic monitoring period that is adjustable based on an interval inherent in the data. As far as traffic control is concerned, the Pasternak patent discloses traffic shaping by dual leaky bucket algorithm. Thus, there is no disclosure or suggestion that a traffic monitoring period is adjustable based on an interval inherent in the data.

Accordingly, the 35 U.S.C. 102 and 103 rejections should be withdrawn, and reconsideration is respectfully requested. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 2nd day of January, 2007.

Respectfully submitted,



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WHEN $X_{PCR} = 2$ AND $X_{SCR} = 5$

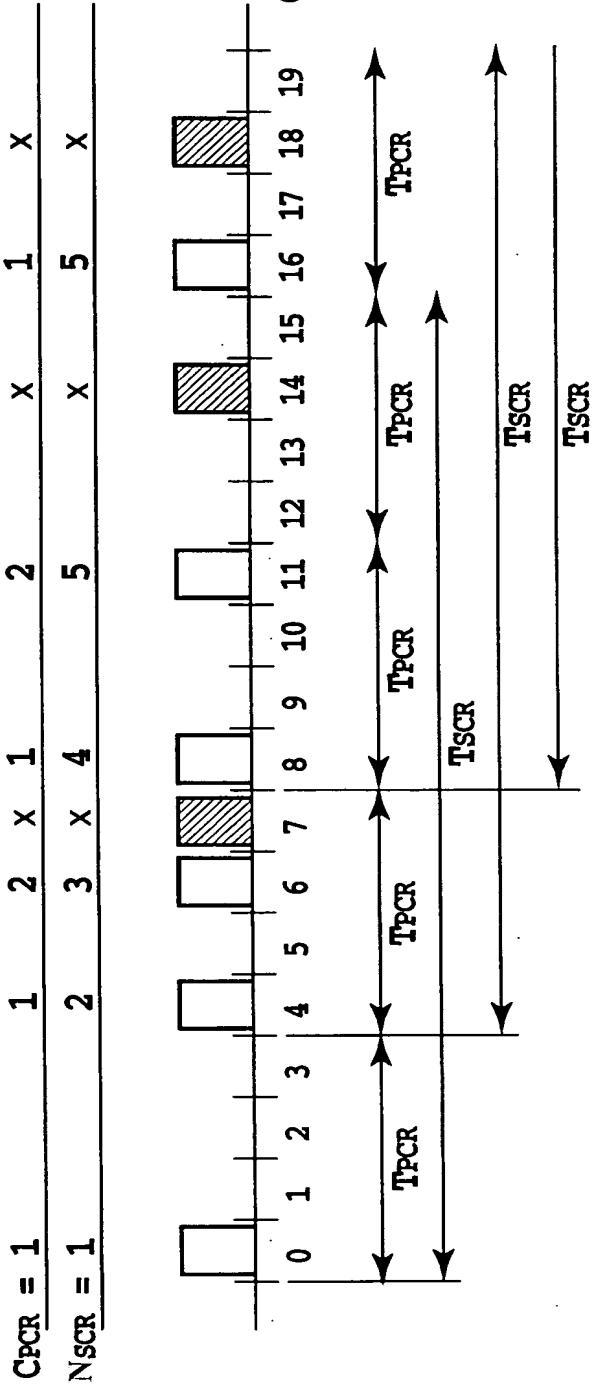


FIG.10

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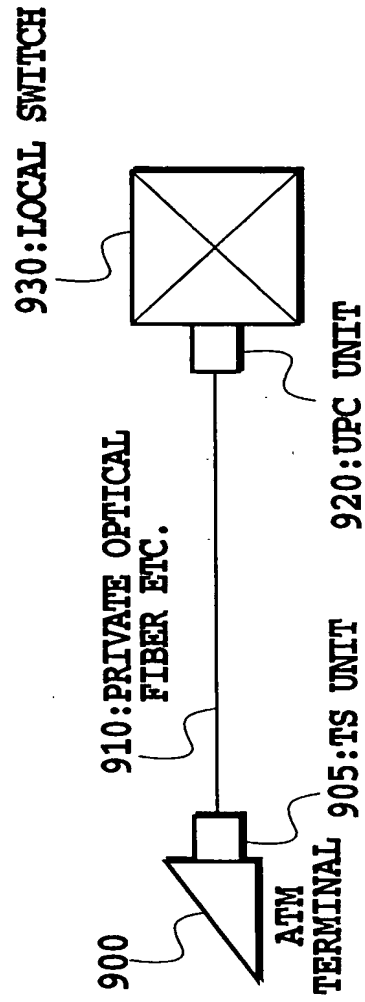


FIG.11
(Prior Art)

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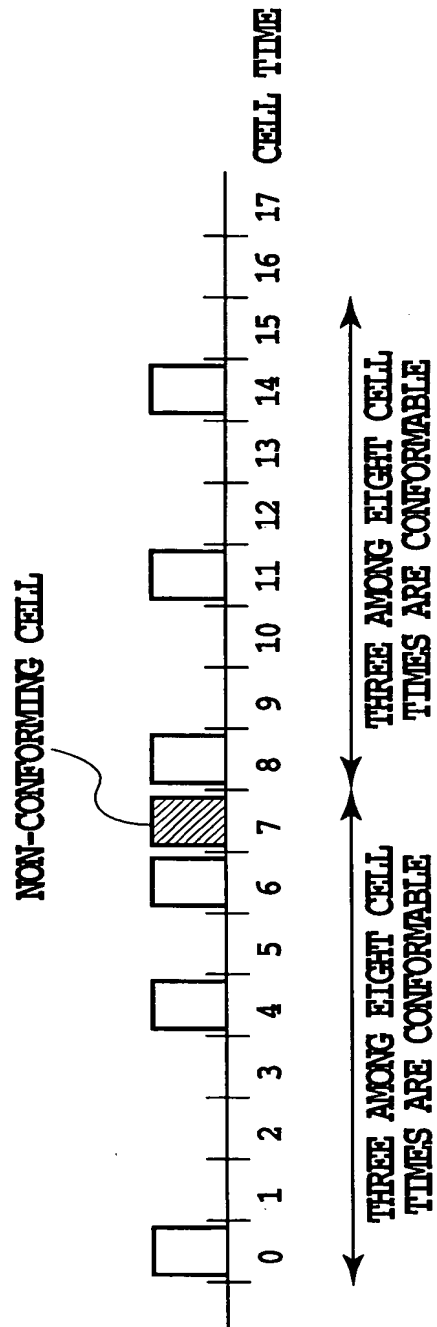


FIG.12
(Prior Art)